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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

KENNETH OWEN,
Plaintiff and Appellant,

v.

CASTRO VALLEY SANITARY
DISTRICT et al.,

Defendants and Respondents;

MELODY APPLETON,
Real Party in Interest

A142577

(Alameda County
Super. Ct. No. HG13668916)

Kenneth Owen brought this action seeking a writ of mandate ordering the appointment of a member of the Board of Directors of the Castro Valley Sanitary District (respectively, “the Board” and “the District”) null and void and directing the District to call an election to fill the position. The trial court denied the petition, and Owen appealed. The District and the Board have moved to dismiss this appeal as moot. We shall grant the motion and dismiss the appeal.

A member of the Board died in 2012, and the Board took action to appoint a replacement. Owen was one of the candidates for the position. The candidates gave presentations at a November 2012 meeting, and four candidates, including Owen, were invited to another meeting to continue the process. Owen alleged that at the November 2012 meeting, each Board member completed ranking sheets of the candidates, which

were not made public, and that the calculations that resulted in composite rankings of the candidates were done outside the presence of the public.

Another meeting took place in December 2012, at which each candidate was interviewed. Melody Appleton was selected to fill the vacancy and sworn into office. Owen alleged that at the December 2012 meeting, Board members completed ranking sheets, which were not made public, and that Board members “huddled” together and “secretly” discussed the rankings.

In this action, Owen alleged the District violated the Ralph M. Brown Act (Gov. Code,¹ § 54950 et seq.) and section 1780 in various ways, including not posting the notice of vacancy properly, using secret ballots, holding secret discussions, and failing to vote properly on Appleton’s appointment. He alleged in connection with each cause of action that if the petition were granted, the Board would have to call an election under section 1780, subdivision (g), and he would be able to run for the vacancy. In his prayer for relief, Owen sought a writ of mandate finding Appleton’s appointment null and void and ordering the District to call an election for the vacant position. The trial court ruled against Owen on all causes of action, and Owen appealed.

Before this appeal was fully briefed, the District filed a motion to dismiss the appeal as moot on the ground that a general election for the Board position occupied by Appleton was about to take place. That election has now taken place. Owen did not run for the position.

“ ‘An appeal should be dismissed as moot when the occurrence of events renders it impossible for the appellate court to grant appellant any effective relief.’ ” (*Santa Monica Baykeeper v. City of Malibu* (2011) 193 Cal.App.4th 1538, 1547.) Owen sought a writ of mandate nullifying Appleton’s appointment and ordering an election to fill her seat. Since Owen filed this action, Appleton’s seat has been filled in a general election. As a result of these events, it is impossible for us to grant Owen any effective relief.

¹ All statutory references are to the Government Code.

Nor does this case fall within any of the discretionary exceptions to the rules regarding mootness: it does not present an issue of broad public interest that is likely to recur, the controversy is not likely to recur between the parties, and no material question remains for our determination. (See *Santa Monica Baykeeper v. City of Malibu*, *supra*, 193 Cal.App.4th at pp. 1547–1548.) Accordingly, we decline to exercise our discretion to consider this moot appeal.

DISPOSITION

The motion to dismiss is granted. The appeal is dismissed as moot.

Rivera, J.

We concur:

Ruvolo, P.J.

Reardon, J.